

APR 05 2007

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Hague for Congress and Lindsey Echelbarger,
in his official capacity as treasurer
Jennifer Hildebrand

MUR 5872

SENSITIVE

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

1. Authorize this Office to enter into conciliation negotiations with Hague for Congress and Lindsey Echelbarger, in his official capacity as treasurer ("Hague Committee" or "Committee"), prior to a finding of probable cause to believe [REDACTED]

2. Accept the attached signed conciliation agreement with Jennifer Hildebrand and close the file with respect to this Respondent.

II. BACKGROUND

This matter arose from a referral from the Reports Analysis Division ("RAD") regarding the Hague Committee's failure to accurately disclose disbursements of Committee funds during the 2004 election cycle. The inaccurate reporting by the Hague Committee resulted from the embezzlement of Committee funds by staffer Jennifer Hildebrand.

On October 30, 2006, the Commission found reason to believe that Jennifer Hildebrand knowingly and willfully violated 2 U.S.C. §§ 432(b)(3) and 439a(b) by commingling Committee funds with her personal funds and converting those funds to her personal use. The Commission authorized pre-probable cause conciliation with Hildebrand [REDACTED]

[REDACTED]

[REDACTED]

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1 The Commission also found reason to believe that Hague for Congress and Lindsey
2 Echelbarger, in his official capacity as treasurer, violated 2 U.S.C. §§ 432(c)(5), 434(b)(4)(G),
3 434(b)(6)(A) and 11 C.F.R. § 104.3(b) by failing to accurately account for and report
4 disbursements that had been embezzled from the Committee. Because we had limited
5 information about the Hague Committee's internal financial controls, the Commission authorized
6 an investigation in order to ascertain the extent of the Committee's liability.

7 Hildebrand submitted a response to the reason to believe finding admitting her liability,
8 agreeing to cooperate with the Commission's investigation and indicating an interest in pursuing
9 pre-probable cause conciliation. However, she claimed that she was financially unable to pay the
10 civil penalty amount, a claim that she later substantiated by submitting a financial disclosure
11 statement detailing her financial condition. The Hague Committee responded to the reason to
12 believe finding with a formal request for pre-probable cause conciliation and also agreed to
13 cooperate with the Commission's investigation.

14 We have now completed our investigation regarding the details of the embezzlement and
15 the Committee's internal controls. [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED] we recommend that the
19 Committee enter in pre-probable cause conciliation with the Committee, and accept the attached
20 signed conciliation agreement with Jennifer Hildebrand.

21 **III. RESULTS OF INVESTIGATION**

22 Hildebrand first met and worked for County Councilwoman Jane Hague in 1994 as a full-
23 time, paid employee and began consulting as the campaign manager of Hague's county council

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1 elections in 1997.¹ When Hague decided to run for Congress in 2003, she hired Hildebrand as
2 her part-time campaign manager. Hildebrand worked on the campaign approximately 10 to 25
3 hours per week. The Committee had only one other salaried employee, Viet Nguyen, who
4 worked as the Committee's field director, but also retained Norm Hime on a part-time
5 consultancy basis to assist in recording contributions and filing the Committee's disclosure
6 reports with the FEC and Washington Public Disclosure Commission.² The Committee did not
7 have its own office and Hildebrand generally worked on campaign tasks from home or on the
8 road.

9 Hildebrand asserts that the Committee did not have any formal procedures in place
10 regarding its finances, a point that the Committee does not dispute. According to Hildebrand,
11 she and Hime "made it up as they went along" and did not have a central bookkeeping system or
12 written policies. She explained that, generally, she collected all contribution checks coming into
13 the Committee and deposited them into the Committee's bank account. She also drafted the
14 checks for the Committee's disbursements. All disbursement checks were signed by only one
15 authorized signatory, usually Hildebrand, regardless of the amount. Other than Hildebrand and
16 Hime, the Committee did not have an auditor or anyone else reviewing the books except, on
17 occasion, Hague herself. According to the Committee, Hime was responsible for the accuracy of
18 the Committee's financial information, but they found out only after the embezzlement scheme
19 came to light that Hime never reviewed the bank statements or reconciled them with the financial
20 information that Hildebrand provided.

¹ Hildebrand confirmed that she began embezzling funds from Hague's county council campaign in 1997. She ultimately embezzled approximately \$90,000 from Hague's local committee, "Friends of Jane Hague" from 1997-2004.

² Committee treasurer Lindsey Echelbarger was the treasurer in name only and did not have any role in the day-to-day activities of the campaign.

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1 Hildebrand stated that she began embezzling funds from the Hague Committee in
2 October 2003. She explained that she wrote checks to herself and then told Hime via telephone
3 or email that she had written the checks to authorized vendors for operating expenses, and he in
4 turn would record that information on the Committee's FEC disclosure reports.³ Hildebrand also
5 wrote seven checks to herself totaling \$11,300 that she told Hime were authorized when, in fact,
6 they were not. Hildebrand contends that she initially embezzled the funds to compensate herself
7 for the hours she had worked on the campaign without payment from Hague. According to
8 Hildebrand, she submitted invoices to Hague for her services, but did not receive compensation
9 for her time or reimbursement for her expenses until several months later. Hildebrand stated that
10 she needed the funds to pay family expenses, including extensive medical bills incurred as a
11 result of her son's medical condition. The Committee contends that Hildebrand initially
12 volunteered her time and was not entitled to compensation until she became a salaried employee
13 in January 2004.

14 Hague dropped out of the congressional race in February 2004. Approximately June
15 2004, Hague asked Hildebrand to issue refunds to family members and contributors who had
16 donated more than \$500. Hildebrand processed the refunds, but rather than issue refund checks
17 to twenty-five of the contributors, she made the checks payable to herself. She did not have a
18 specific method for targeting contributors, but generally chose those she thought would never
19 inquire about the refund.

20 Since Hildebrand kept the only records of the Committee's disbursements and there was
21 no reconciliation of the books, the Committee did not discover the embezzlement until January
22 2005 when Hildebrand admitted to Hague that she had embezzled campaign funds. The

³ Eighteen of the checks Hildebrand embezzled were inaccurately reported on the Committee's disclosure reports as "operating expenditures" to authorized vendors.

1 Committee subsequently hired a firm to conduct an internal audit of the Committee's books and
2 discovered that Hildebrand had embezzled a total of \$56,409.82. Hildebrand made full
3 restitution of this amount and the \$90,367.35 she embezzled from Hague's county campaign.
4 Hildebrand also paid the Hague Committee \$73,829.19 in attorney's and auditor's fees in
5 connection with the embezzlement.

6 In 2005, the King County Prosecutor's office filed charges against Hildebrand and she
7 ultimately pled guilty to one count of theft. She was sentenced to 160 hours of community
8 service and paid a nominal fine. Hildebrand's counsel represented to us that the prosecutor did
9 not seek a stiffer penalty in this matter due to the fact that, even before King County brought
10 charges against her, Hildebrand had already made full restitution to the Committee including
11 attorney's and auditor's fees.

12 IV. DISCUSSION

13 A. **Hague Committee**

14 1. Liability for Reporting Errors

15 The Commission has concluded that committees should implement certain minimal
16 safeguards in the form of internal financial controls to prevent misappropriations and associated
17 misreporting. *See* Commission Policy Statement Regarding Internal Controls (adopted March
18 22, 2007). Accordingly, the Commission has created a safe harbor from monetary penalties for
19 committees that have five basic internal controls in place at the time of an embezzlement, as long
20 as the committee immediately informs law enforcement and the Commission, and voluntarily
21 amends its reports to correct the inaccuracies. *Id.*

22 In this matter, the information gathered in the course of our informal investigation
23 indicates that the Committee had almost no internal controls in place whatsoever. Specifically,

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the Committee did not have any written internal control policies and allowed Hildebrand and Hime to operate with no oversight from the treasurer, the candidate, or anyone else involved with the Committee. They did not require the authorization of two individuals for checks or wire transfers, even for disbursements of several thousand dollars. Rather than segregate duties, the Committee specifically vested Hildebrand with the authority to manage both the Committee's receipts and its disbursements, and failed to ensure that anyone reconciled the Committee's monthly bank statements to its accounting records. See Commission Policy Statement Regarding Internal Controls. In fact, at the time of the embezzlement, the Committee had in place only one of the five internal controls recommended in the Commission's Policy Statement Regarding Internal Controls. Specifically, the Committee's bank account was opened in the name of the Committee rather than an individual.

Furthermore, after discovering the embezzlement activity, the Committee waited eleven months to notify the Commission and did not file amended reports to correct the reporting errors until more than one year after discovering the problem. Accordingly, it is appropriate to hold the Committee liable for the reporting errors that resulted from the misappropriation of Committee funds. Therefore, we recommend that the Commission authorize the Office of General Counsel to enter into conciliation negotiations with Hague for Congress and Lindsey Echelbarger, in his official capacity as treasurer, prior to a finding of probable cause to believe, [REDACTED]

2. Conciliation and Civil Penalties for the Committee

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] [REDACTED]

5 [REDACTED]

[REDACTED]

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13 [REDACTED] For the reasons set forth below, we recommend that the Commission accept the

[REDACTED]

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1 attached signed conciliation agreement with Jennifer Hildebrand and close the file with respect
2 to this Respondent.

3 During negotiations, Hildebrand fully cooperated with this Office and submitted
4 extensive financial documentation that established her inability to pay a civil penalty in this
5 matter. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Further, as discussed above, Hildebrand has been convicted of felony theft in King
14 County, Washington. She completed 160 hours of community service and paid a nominal fine
15 based upon her cooperation with the prosecutor's office and the fact that even prior to
16 prosecution, Hildebrand had already made full restitution to the Committee including attorney's
17 and auditor's fees. Hildebrand submitted a copy of the Agreed Order on Restitution, which
18 reflects that Hildebrand has paid a total of \$220,606.36 to the Hague Committee. The order also
19 indicates that Hildebrand may be liable for the Hague Committee's penalties, fees, and other
20 costs resulting from the FEC's investigation of the Committee.⁵

⁵ The order, dated January 19, 2007, states in part "The parties agree that this order does not resolve any issue of potential restitution for fines or penalties imposed in the future as a result of the recent investigation by the Federal Election Commission (FEC) and associated attorney's fees or other costs incurred by Jane Hague or her campaign committees which may be brought before this court as a later date."

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1 Given Hildebrand's financial situation and the facts surrounding her criminal
2 prosecution, we recommend that the Commission accept the attached signed conciliation
3 agreement, which includes no civil penalty. *See* MURs 5811 (Doggett) and 5812 (OSMAPAC).

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

[REDACTED]

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Based upon the foregoing, we recommend that the Commission accept the attached signed conciliation agreement with Jennifer Hildebrand and close the file with respect to this Respondent.

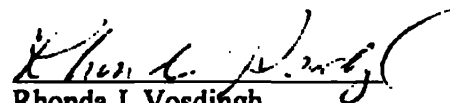
V. RECOMMENDATIONS


1. Authorize the Office of General Counsel to enter into conciliation negotiations with Hague for Congress and Lindsey Echelbarger, in his official capacity as treasurer, prior to a finding of probable cause to believe [REDACTED]
2. Accept the attached conciliation agreement with Jennifer Hildebrand and close the file with respect to this Respondent;
3. Approve the appropriate letters.

Thomasenia P. Duncan
Acting General Counsel

4/4/07
Date

BY:


Rhonda J. Vosdignh
Associate General Counsel


Kathleen M. Guith
Assistant General Counsel


Kate Belinski
Attorney

Attachments:

1. [REDACTED]
2. Signed Hildebrand Conciliation Agreement
3. [REDACTED]

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